

LOCAL FINANCE NOTICECHRISTINE TODD WHITMAN
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This Local Finance Notice is a followup to Notice CFO-94-9 which reviewed issues relating to the use of credit cards by local government units. The Notice indicated that local government units may use store based credit cards (those issued by and for use in a particular business establishment), as long as the use of such cards complies with all applicable encumbrance and payment procedure requirements of the Local Fiscal Affairs Law, and with all applicable procurement requirements of the Local Public Contracts Law. Chief Financial Officers are asked to provide copies of this notice to other appropriate agency officials.

CFO-94-9 also indicated that the use of bank or travel and entertainment cards (i.e., MasterCard, Visa, American Express, Discover) did not appear to be permitted, in light of the conflicts that the use of such cards posed to compliance with these laws. At that time, we indicated that an Attorney General Opinion would be requested seeking clarification in this regard. The matter received greater urgency as a result of several widely publicized cases of government officials misusing credit cards. The Opinion was received by the Division late last year.

The opinion concludes that the use of bank or travel and entertainment credit cards (hereinafter, credit cards) by local government units is **not permitted**. More specifically, the opinion states: *"In conclusion, for the reasons set forth above, you are advised that local government units may not utilize bank or "travel and entertainment" credit cards to purchase goods and services."*

The opinion discussed the business practices related to credit cards, the relationships between the parties to the transaction, and the use of a third party to bill and receive the funds from the local unit. The opinion concluded that these practices precluded compliance with various provisions of the Local Fiscal Affairs Law, i.e., those provisions related to certification of vendors that the goods or services were delivered and that the bill is correct, and the certification of a municipal officer or employee that the bill was correct. The opinion further noted that other legal questions might also exist regarding the use of such cards, but indicated that it was unnecessary to address them. The Division also has concerns that the use of these credit cards presents internal control difficulties in assuring that encumbrances for purchases are in place, and that their use can easily conflict with the requirements of the Local Public Contracts Law.

Therefore, any local unit that is utilizing bank or "travel and entertainment" credit cards must now cease their use immediately, and cancel the cards and accounts. As noted previously, this does not affect the use of store accounts, when properly utilized.

The Division recognizes that local government units used these cards in the belief that their convenience was useful and reduced transaction costs. In this regard, we would like to remind local officials of other options that, when used together, can help achieve these aims:

- Travel advances: N.J.S.A. 40A:5-16.1 permits the governing body to authorize travel advances to local officials. Standard internal procedures can be established for convenient handling of these advances and their ultimate documentation. It also provides additional public confidence in the spending of government funds.
- Use purchase orders: When destinations and plans are known in advance, an encumbered purchase order and voucher may be accepted by hotels and other businesses.
- Reimbursement of travel expenses: Nothing prevents local officials from using their own resources for travel purposes and submitting expenses for reimbursement. This practice is used by many private sector organizations, as well as the State of New Jersey. Use of reimbursements should be limited to travel expenses in order to avoid conflict with the Local Public Contracts Law.
- Store cards: When properly used in accordance with the requirements of the Local Fiscal Affairs Law, the Local Public Contracts Law, and encumbrance accounting, cards issued by specific vendors, i.e., hardware stores, office supplies, may be used by local government units. Internal control procedures must, of course, be implemented to provide adequate oversight and supervision.

Used together, these strategies can provide superior levels of internal control and public confidence that funds are being properly supervised and used for intended purposes.

In times when changes in business practices would seem to lean toward the efficiency of credit card or electronic transactions, we must not forget that the funds used by public entities to pay for goods and services are not personal funds, but those of the public. Our system of laws was established to provide a high level of trust and integrity in government financial practices. While use of credit cards may result in lower transaction costs, such use would also defeat the comprehensive system we have for assuring financial integrity and lead to a loss of confidence that would, in turn, only result in stricter controls. When the time comes that a system of electronic transactions will both permit expanded use of credit type cards and provide a high level of fiscal integrity, the Division intends to work with local officials to integrate such practices into the system.

However, at present, the applicable provisions of the Local Fiscal Affairs Law do not, as indicated in the Attorney General's opinion, permit local units to utilize bank or "travel and entertainment" credit cards, and local officials are obligated to act accordingly. A copy of the opinion can be obtained by calling the Division at 609-292-7842, and is also available on the Internet at the Division's home page at <http://state.nj.us/dcadlgs.htm>. If you have any questions about this opinion, please contact the Division at 609-292-4806.

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Distribution: Chief Financial Officers of all government units